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# Statement by Deputy Chief Commissioner David Langtry at the Opening Plenary Session of the Canadian Race Relations Foundation's 2008 Award of Excellence Symposium

Speaking notes for

**Mr. David Langtry**
Deputy Chief Commissioner
Canadian Human Rights Commission

at the Opening Plenary Session of the Canadian Race Relations Foundation's
2008 Award of Excellence Symposium

1:30 p.m. Wednesday, April 30, 2008
Coast Plaza Hotel and Conference Centre
Calgary, Alberta

Check Against Delivery

Good afternoon ladies and gentlemen,

It is certainly an honour to join you at the Canadian Race Relations Foundation's 2008 Award of Excellence Symposium.

There is something very encouraging about speaking before a group of people committed to change. For many of us, our work is all-encompassing. It is easy to feel that the challenges of the day are ours alone. Symposiums such as this provide us all with a chance to step back and recognize that we are not working in isolation. Ours is a concerted and collective effort.

And it is not an effort that stops at our borders. Sixty years ago, the Universal Declaration of Human Rights (UDHR) united the world in recognizing universal values that transcend cultures and traditions. More than half a century later, we continue to draw inspiration from its commitment to universal dignity and justice.

Indeed, this is a worldwide movement.

And that is what is so motivating.

We are here because we believe that we can make a difference.

We are optimistic.

Conferences are a chance to share ideas, learn about best practices and recharge our enthusiasm. Open dialogue, collaboration and the sharing of what works are vital to influencing a positive shift in Canadian society. It is how we will eliminate racism.

I would like to thank you all for welcoming me here today. It is truly an honour to be here and have the opportunity to be included in this most worthy symposium and I applaud all of you for bringing your dedication and optimism to this event.

I am certain that I am not alone in saying that there is value in outlining and understanding the factors within society that contribute to racism in Canada. Or put another way, the obstacles to a Canada without racism.

This Symposium's theme poses the question: "What is Canadian Racism?"

I am sure you will agree that answering this question requires input and perspective from a variety of stakeholders. With this in mind, I will endeavor to provide you with the Canadian Human Rights Commission 's overview of the barriers - or obstacles - that racialized groups face in Canadian society. And that can contribute to forms of racism in Canada.

Some of the issues that I am here to discuss have recently been the subject of debate in the media.

These lively and emotional public discussions can often appear negative and controversial, however they bring the issues to the forefront and increase public awareness and understanding.

The most recent debate over freedom of expression and hate messages has had the media's attention for several months.

Canadian courts have long affirmed that freedom of expression must be balanced against the societal harm that can be done by irresponsible speech, especially when that speech takes the form of hatred.

Proponents of free speech argue for the unfettered right of an individual to express their view. However, their arguments refuse to acknowledge the severe impact that hatred and hate speech has on those who are targeted.

During the Federal Court of Canada decision in *Canada (Human Rights Commission) v. Winnicki*, Mr. Justice de Montigny wrote:

*"The damage caused by hate messages to the groups targeted is very often difficult to repair. It insidiously reinforces the prejudice that some people may have towards minorities identified by race, colour and religion, thus prompting and justifying discriminatory practices and even violence against these groups."*

Human rights commissions and tribunals may be bearing the brunt of these arguments, but this is a debate that concerns all Canadians. If we are to create a society free from discrimination, a collective and united stand is necessary to successfully combat hatred in all of its forms.

While the debate surrounding hate speech deals with the extreme views of a number of misguided individuals, recent polls and articles have also touched on mainstream opinions concerning racialized groups.

The story I am referring to was summed up by a headline that read: "Majority believes Canada coddles minorities..." An opinion poll, conducted by the Globe and Mail found that Canadians believe that Canada bends too much in trying to make racialized groups feel at home. The same respondents however felt that they lived in a welcoming society.

The media's decision to focus on the negative and give such priority to this story speaks to the pervasive existence of a fear of differences and unwillingness within society to acknowledge that racism exits.

This sentiment is given further legitimacy by a third issue that focuses on proposed amendments to immigration laws. The changes to the *Immigration and Refugee Protection Act* would give Citizenship and Immigration Canada greater powers to screen and accept applications based on the economic benefits that the person could bring to Canada.

The paradox of course, is that while many see a new Canadian's economic contribution as the priority, the country is not reciprocating. Racialized groups trail behind non-racialized groups with regard to employment and income. This is in spite of the fact that they generally have higher education levels than non-racialized groups.

This reality is one of the many obstacles that have not garnered as much media attention, but continue to contribute to inequality in Canada.

Language barriers, a lack of recognition of foreign credentials, and the fact that preference continues to be given to Canadian citizens in public service hiring, all contribute to discrimination in employment.

Systemic barriers have been highlighted during recent cases before the Human Rights Tribunals. These include discounting the abilities of visible minorities[1] or rejecting them on the basis that they are over-qualified[2].

Visible minorities continue to be under-represented in the federal public service. By 2017, it is projected that 20% of the Canadian workforce will be a member of a visible minority. This is in contrast to 13% in 2001 and under 5% in 1981. With this continued growth, correcting this issue requires a change in hiring processes that can effectively reflect the changing landscape of our population.

The lack of managerial accountability only exacerbates this obstacle. This will not change as long as employment equity is seen as something within the job description of an employment equity manager to be monitored as a statistic.

The Commission has stated publically that change will only be realized when employment equity is articulated in the organization's vision, values and objectives. Moreover, employment equity must be supported within an organization's business plan and through institutionalized incentives such as performance measurement and accountabilities for all managers.

In short, we must hold organizations and their leaders to account if we are to see significant and meaningful change.

The situation is different in the private sector, but challenges remain. At first glance, the federally regulated private sector looks to be doing well. Although visible minorities enjoy higher representation than availability in share of jobs, they are under-represented in management positions.

Focus groups conducted by the Conference Board of Canada identified that visible minorities are being denied positions based on personal suitability or a lack of fit. In essence, managers are looking for people similar to themselves. This problem is compounded by the scarcity of visible minorities on selection committees.

I will say it again. These systemic barriers can only be eliminated through a change in organizational culture that is built on accountability.

In discussing obstacles at a high level, it is easy to lose sight of the fact that many of these hurdles are created unintentionally. This fact contributes to the difficulties associated with influencing change.

The discussion surrounding whether prejudices are overt or covert also exists within the realm of racial profiling.

When discussing racial profiling many organizations are convinced that their staff would never engage in racial profiling and, therefore, they do not need policies and procedures for staff and clients who feel that they have been racially profiled. This argument ignores the fact that profiling may be unintentional.

Racial profiling has long been a barrier to eliminating racism in Canada.

I am pleased to say that this area of concern has recently seen some positive developments.

Human rights tribunals have made it clear that the issue in not whether racial profiling is intentional, but rather whether it occurred.

In a 2005 decision, the British Columbia Human Rights Tribunal[3] stated that three security guards *"were operating on the basis of subtle stereotyping. I need not determine if that stereotyping was conscious or unconscious; it is its effects which are of concern."*

Human rights tribunals have also accepted that racial profiling does occur. In a 2007 decision, an Ontario Human Rights Tribunal[4] concluded that this form of racial discrimination is not the result of isolated acts. Instead, it was acknowledged that racial profiling is part of a systemic bias in many police forces – a position shared increasingly by Canadian courts.

While there are still many challenges associated with racial profiling, it is encouraging to see growing understanding and recognition of its existence.

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I would like to now focus on Canada's Aboriginal Peoples.

The reality for many First Nations communities is ongoing poverty, and an increasing gap in living conditions with other Canadians.

I ask you to consider this:

- 1 in 4 First Nations children live in poverty;
- 1 in 3 First Nations people consider their main source of drinking water unsafe;
- 12% of First Nation communities have to boil their water;
- Life expectancy for First Nations women and men is substantially lower than the Canadian average;
- Rates of diabetes and tuberculosis are as much as five times higher.

Another fact of life for Aboriginal people is their disproportionate rate of incarceration. Although Aboriginal people constitute less than 3% of the population of Canada, they account for 19% of the population of federal prisons.

The situation is particularly alarming in the case of Aboriginal women. The numbers are staggering:

- Aboriginal women account for 3% of the women in Canada;
- 33% of incarcerated women offenders in federal correctional facilities are Aboriginal women; and,
- Aboriginal women account for 44% of the women classified as maximum security.

To further compound the problem, Canada's First Nation's people continue to be denied full access to human rights redress under section 67 of the *Candian Human Rights Act* .

In 2005, the Commission released *A Matter of Rights*, a special report calling for the urgent repeal of section 67 of the

*Canadian Human Rights Act*. This January, the Commission issued *Still A Matter of Rights* . This supplementary report analyzes key issues raised by First Nations and other stakeholders and provides recommendations on how to move matters forward.

The Commission continues to call for the repeal of section 67 of the *Canadian Human Rights Act*.

In December 2006, Bill C-44 was introduced in Parliament. It was referred to the Standing Committee on Aboriginal Affairs for further discussion in February 2007. The Bill died on the order paper when Parliament was prorogued in September 2007. It is the fourth time in the last 30 years that legislation proposing repeal of section 67 has failed.

The Bill was re-introduced as Bill C-21 in November 2007, and is now before Parliament awaiting 3rd reading.

The Commission's work in support of the repeal of Section 67 is but one example of the many initiatives and tools that are in place to contribute to change. In discussing the many obstacles that we face in the elimination of racism, I want to take the opportunity to discuss some of the tools that are in place to assist us in our goal of eliminating racism.

Canada has ratified most major human rights treaties. Reports on Canada's implementation of its obligations under these conventions draw attention to areas in which its human rights performance needs to be strengthened.

In 2007, the United Nations' Office of the High Commissioner for Human Rights, which monitors the implementation of human rights treaties, examined Canada's implementation of the International Convention on the Elimination of all Forms of Racial Discrimination.

In its report on Canada, the Committee on the Elimination of Racial Discrimination made a number of recommendations for action to address deficiencies.

Four of which are to:

- Implement a nationwide collection of disaggregated data based on racial and ethnic groups. This would improve how the overall situation of different racial and ethnic groups is evaluated.
- Undertake awareness campaigns to help protect persons and groups from stereotypes associating them with terrorism and amend the *Anti-Terrorism Act* to include an explicit anti-discrimination clause.
- Provide culturally sensitive training to all enforcement officers, taking into consideration the specific vulnerability of aboriginal women and women belonging to racial and ethnic minority groups to gender-based violence.
- Allocate sufficient resources to enable the enjoyment of economic, social and cultural rights by Aboriginal peoples.

These recommendations to address deficiencies have a cascading effect as Canada and its provinces provide guidance and recommendations to organizations and individuals.

When Canada's human rights tribunals and boards of inquiry make recommendations to respondents, the policy component of settlements and orders often require that training or educational initiatives take place.

For example, a Canadian Human Rights Commission settlement required the respondent to develop an anti-racial profiling policy and provide anti-racial profiling training to its staff[5].

A Saskatchewan Human Rights Board of Inquiry agreed with the position of the Saskatchewan Human Rights Commission that *"what is more important than monetary compensation is the recognition that individuals have to be assessed on their own merit. Protection of their individual dignity is paramount."*

The tribunal ordered the company to cooperate with the Commission in fashioning a policy and/or providing additional training to its staff[6]. These policies and training were aimed at enhancing the staff's ability to carry out their duties while respecting the (Saskatchewan Human Rights) Code.

These are but a few examples of what we might call reactionary educational initiatives. There are also many great examples of proactive approaches to education. This symposium and the achievements we are here to recognize come to mind.

A large part of this symposium is celebrating our innovations. The CRRF's Awards of Excellence initiative is successful year in and year out because best practices to eliminate racism are not only recognized, they are also shared with a national audience.

Providing a venue for all winners to share their successes and best practices with participants is invaluable to creating a future in which all Canadians are treated equitably and fairly.

I would like to congratulate this year's seven finalists for this year's Award of Excellence:

The Université du Québec à Montréal who produced "**La Leçon de Discrimination**"

The Chinese Canadian National Council (**Ontario**) for its work on the Chinese Canadian Head Tax, The Newfoundland Head Tax and the Chinese Exclusion Act;

The Centre for Research-Action on Race Relations (**Québec**) for its multi-faceted campaign to address racial profiling;

"The Great White North Project: Exploring Whiteness, Privilege, Racism and Identity in Canada", a collection of essays on white privilege and racism by Dr. Darren Lund (and Dr. Paul Carr) of the University of Calgary (**Alberta**);

The Youth Action Network (**Ontario**) for its annual anti-racism conference;

Le Carrefour BLE (**Québec**) a workplace integration program which assists international graduates with degrees in agriculture; and,

SaskTel (**Saskatchewan**) for its Representative Workforce Strategy and Aboriginal Participation Initiative.

In closing, I would like to take this opportunity to congratulate the Canadian Race Relations Foundation and the CRRF AoE Symposium Partners Reference Group for organizing this inspiring event. It is my understanding that this ad hoc group of stakeholders, involved in equity and anti-racism initiatives in Alberta, has been instrumental in the success of the CRRF Award of Excellence Symposium.

Gathering a significant community of people engaged in fighting racism provides the opportunity to lead public policy, profile research and share exemplary models of effective anti-racism practices.

Indeed, all of your work, and this annual symposium is important to meeting our shared objectives. I am optimistic that together, we will one day reach our goal and eliminate racism in Canada.

Thank you.

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1. *Ali Tahmourpour v. Royal Canadian Mounted Police, 2008 CHRT 10*
2. *Sangha v. Mackenzie Valley Land And Water Board, 2006 CHRT 9 (Feb 24, 2006)*
3. *Radek v. Henderson Development(Canada) Ltd. (3) (2005), 52 C.H.R.R. D/430, 2005 BCHRT 302*
4. *Ontario Human Rights Commission v. Regional Municipality of Peel Services Board, 2007 HRTO 14 (May 11, 2007)*
5. *This was a confidential settlement. The respondent cannot be identified.*
6. *Pritchard v. Ziedler (2007), CHRR Doc. 07-527 (Sask. H.R.T.)*

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